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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,324	05/25/2000	Thomas Nello Giaccherini	HDM2000-1	7267

7590 09/26/2005
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EXAMINER

LY, ANH VU H

ART UNIT PAPER NUMBER

2667

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/579,324

Applicant(s)

GIACCHERINI ET AL.

Examiner

Anh-Vu H. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date September 02, 2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-11 and 14-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Aristides et al (US Patent No. 5,657,072).

With respect to claim 1, Aristides discloses a method for on-demand use of pre-selected content by a recipient, comprising the steps of:

utilizing the excess capacity of a network by conveying data over said network during a period of less than maximum usage (Fig. 4, steps 100 and 102 and col. 7, lines 59-61);

receiving and storing said data at a customer's premises during said period of less than maximum usage (Fig. 4, steps 102 and 104 and col. 8, lines 12-13);

accumulating said data over an extended period of time (Fig. 4, step 104 and col. 8, lines 12-13); and

selectively retrieving said data by said recipient for on-demand use at a time after said extended period of time (col. 8, lines 13-17).

With respect to claim 2, Aristides discloses that wherein the network includes a satellite (col. 4, line 1).

With respect to claims 3-8 and 14-15, Aristides discloses that wherein satellite operates in LEO, MEO, HEO, and GEO (col. 4, line 1 discloses satellite systems for carrying video image and other data transmission types. Herein, it is known that satellite can operate at different orbits and the system including a sub-orbital platform).

With respect to claims 9 and 16, Aristides discloses that wherein the network includes a terrestrial wired network (col. 3, line 66 – col. 4, line 9).

With respect to claims 10 and 17, Aristides discloses that wherein the network includes a terrestrial wireless network (col. 3, line 66 - col. 4, line 14).

With respect to claim 11, Aristides discloses an apparatus (Fig. 1) comprising:

a gateway means (Fig. 1, elements 60 and 62) for transmitting a plurality of digitized packets of data;

a relay means (Fig. 1, elements 68 and 70) for receiving said plurality of digitized packets of data from said gateway means and for retransmitting during a time period when the total communications capacity of said relay means is not fully used (Fig. 4, step 102);

a receiver means (Fig. 5) for collecting said plurality of digitized packets of data which are transmitted from said gateway means;

said receiver means including a storage means (Fig. 5, element 206) for accumulating said plurality of digitized packets of data incrementally over an extended period of time; and

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means for selectively retrieving and using said plurality of digitized packets of data after a generally full program has been accumulated (col. 8, lines 36-62).

With respect to claims 18-19, Aristides discloses that in which the receiver means is located on and/or above the Earth's surface (Fig. 1).

With respect to claims 20-24, Aristides discloses that in which the receiver means is located in a fixed terminal, a portable terminal, a mobile terminal, a sub-orbital platform, satellite in orbit (Fig. 5 discloses a block diagram of a user interface unit. Herein, the unit can be hooked up to any system or to any device).

With respect to claims 25 and 26, Aristides discloses that prior to conveying said data over said network, transmitting said data from a terrestrial station to said satellite over said network during a period of less than maximum usage of said network (Fig. 1 discloses that the media server provides the data programs to the transceiver 66 for transmitting to the satellite system, col. 4, line 1, when the usage of the network is not maximized, otherwise, the satellite would not be able to receive full data programs when the network is maximized or overloaded).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

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matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aristides et al (US Patent No. 5,657,072) in view of Picco et al (US Patent No. 6,029,045).

With respect to claims 12 and 13, Aristides discloses an interactive entertainment network (Fig. 1). Aristides does not disclose that in which the receiver means is shielded to eliminate local radio frequency transmissions that could be used to make an unauthorized copy and/or tamper-proofed to thwart unauthorized copying. Picco discloses receiver means is shielded to eliminate local radio frequency transmissions and tamper-proofed to thwart unauthorized copying (Fig. 3, discloses that the set-top box is already shielded and tamper-proofed by the manufacturer). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the features of shielding and tamper-proofed of the receiver means in Aristides's network, as suggested by Picco, to eliminate interference and protect information.

Conclusion


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H. Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

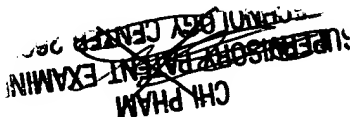
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

avl


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